



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,391	09/29/2000	Marcia Rojewski	Hartford-3	1818
45722	7590	10/19/2006	EXAMINER	
PLEVY & HOWARD, P.C. P.O. BOX 226 FORT WASHINGTON, PA 19034			FRENEL, VANEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/676,391

Applicant(s)

ROJEWSKI ET AL.

Examiner

Vanel Frenel

Art Unit

3626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 8.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation Sheet of 11:

Applicant's arguments and response filed on 9/06/06 have been considered but do not overcome the rejection for at least the following reasons:

(A) At pages 5-19 of the 9/06/06, Applicant's Representative argues that: (1) John and Leslie fail to teach the limitations of claim 8 (a) calculating a base score by at least calculating a likelihood a payment will be made by a legally liable party; (b) calculating a probable percentage of losses recovered through payments received from said legally liable party; (c) identifying at least one economic factor pertinent to said base score; (d) calculating a first adjustment dependent upon said identified at least one economic factor; (e) identifying at least one collection efficiency or strategy pertinent to said base score; and (f) calculating a second adjustment dependent upon said identified at least one collection efficiency or strategy.

(2) Leslie fails to teach or suggest g) automatically calculates a base score; h) selects claims on the basis of the base score which demonstrate at least a given probability of expected subrogation recovery dependent upon the received data; i) automatically identifies risk factors associated with the claim for each of the select claims; and j) automatically scores each of the select claims dependent upon the base scores and said identified risk factors. The Examiner respectfully disagrees.

(A) With respect to Applicant's first argument, Examiner respectfully submits that Leslie does disclose Worker's Compensation Fraud of Utah identify 50 fraudulent claims to be a form of legally liable party which correspond to Applicant's claimed feature (See Leslie, Page 3, Paragraphs 2-3). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(B) With respect to Applicant's second argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature by stating "They are workers' comp employer premium fraud; automobile insurance fraud etc. which correspond to Applicant's claimed feature (See Leslie, Page 3, Paragraphs 8-9). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(C) With respect to Applicant's third argument, Examiner respectfully submits that Leslie clearly teaches such a feature (See Leslie, Page 3, Paragraph 9). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(D) With respect to Applicant's fourth argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 2, Paragraphs 6-7). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(E) With respect to Applicant's fifth argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 4, Paragraph 1). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(F) With respect to Applicant's sixth argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 2, Paragraph 1). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(G) With respect to Applicant's seventh argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 2, Paragraph 1). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(H) With respect to Applicant's eighth argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 3, Paragraph 4). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(I) With respect to Applicant's ninth argument, Examiner respectfully submits that He relied upon the clear and unmistakable teaching of Leslie for such a feature (See Leslie, Page 3, Paragraph 4). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(J) Applicant's remaining arguments rely upon those arguments addressed above, and are likewise moot for the same reasons set forth in the preceding responses and the finality is hereby sustained.

(K) Applicant's request for consideration does not place the application in condition for allowance because: Applicant argues features that have been entered of the present communication, and Applicant's remarks fail to consider the full teachings of the applied references in the manner discussed in the prior Office Action. Other arguments presented appear to rehash issues addressed in the Final Rejection of 5/31/06.

Lynda Jasmin 10/16/06
Primary Examiner